



A QUICK NOTE FROM THE CHAIRMAN

We're entering the dog days of August and while the economy isn't where we'd like it to be, there seems to be plenty of work. It appears that those contractors who are out there hustling are keeping busy. The cost of fuel is still way too high, and we all have to stay up with current pricing on our petroleum based products. Water conservation is still a major issue, and we should be looking to get certified as Water Managers which would open potentially new profit centers. For more information on water certification check out the CLCA Website.

Golden Oak Cooperative Corporation (the successor to the Insurance Board of Trustees), comprised of all members of CLCA, has expanded the Video Library to include several videos covering harassment in the workplace. These, along with the other videos in the library, are available for members use for up to two weeks at no charge other than the cost of shipping. For more information call the Golden Oak Offices (800) 451-2834. There are a lot of CLCA members who don't realize that they are part of the Golden Oak Co-op, and by taking advantage of the Co-op's various services it can help their business. *Recently CLCA and Golden Oak Co-op reaffirmed the exclusive endorsement for the Insurance and Financial Products endorsed by Golden Oak*, which include all of the insurance products sold by L.C.I.S. In addition, Golden Oak endorses a Workers Comp. Group with State Compensation Insurance Fund (S.C.I.F.) and premium and equipment financing through Birch Financial, Inc.

Landscape Contractors Insurance Services, Inc. (L.C.I.S.), primarily owned by Golden Oak, is providing the best available insurance coverage to the members of CLCA. L.C.I.S. has added several new carriers that provide Workers' Compensation Insurance and has recently signed a contract with Arch Insurance Co. for our package insurance. L.C.I.S. recently introduced a moderately price AD&D plan which coincides with a company's Workers Comp payroll. L.C.I.S. continues to seek new markets to benefit all CLCA members.

We would like to congratulate Kim Ayala on becoming Executive Vice President. Kim has been with the company since its inception 19 years ago. We have also contracted with Jerry Elson as a consultant to assist with Sales and Development of new markets. A new health insurance program is now available. Anyone interested in health plans should contact Terry Mahlman at (800) 628-8735.

Birch Financial, Inc. is a premium finance company owned by Landscape Contractors Insurance Services, Inc. (L.C.I.S.). Birch's equipment financing division **BIRCH FINANCIAL EQUIPMENT FINANCE** provides financing for mowers, tractors, trenchers and vehicles, new or used. The equipment finance division currently has over \$1,000,000 in outstanding loans. Interest rates are based on your financial credit report. If you qualify, loans can be turned around in a few days. **If you are thinking about buying equipment, new or used, contact Nelson about financing at 1-800-959-3701.**

For more information regarding the Golden Oak family please visit our website – www.goldenoak.org.

Sincerely,

Mickey Strauss

Chairman of the Board



LCIS SHARES

AVAILABLE FOR PURCHASE

Golden Oak Co-op Corporation has a limited number of Landscape Contractors Insurance Services Inc. shares available for sale. Shares will be offered on a first come first serve basis to qualified individuals. The share cost is \$1,146/share and the minimum purchase is 5 shares. Anyone interested in purchasing shares should contact Nelson Colvin at (800) 451-2834.

RULES AND QUALIFICATIONS TO PURCHASE AND OWN STOCK IN LANDSCAPE CONTRACTORS INSURANCE SERVICES, INC. (L.C.I.S.)

1. The Board of Directors establishes the value of the L.C.I.S. stock on an annual basis after review and approval of the year-end financials. (The valuation will be effective as of July 1 each year)
2. Share ownership will require a minimum amount of five (5) shares.
3. All buy and sell transactions will be through Golden Oak Cooperative Corporation. (Golden Oak)
4. Golden Oak will maintain a minimum 80% majority ownership of L.C.I.S.
5. All shareholders must meet the following minimum qualifications:
 - (a) Maintain a current Regular or Associate Membership in CLCA (California Landscape Contractors Association).
 - (b) Be insured by an insurance product through Landscape Contractors Insurance Services, Inc. (L.C.I.S.)
 - (c) Meet minimum financial requirements as required by law.
 - (d) The Board of Directors shall have sole discretion on who may become a shareholder of L.C.I.S. and simply because an individual may meet all three qualifications of Sec. 5, no individual has the "right" to become a shareholder of L.C.I.S.
 - (e) Certain employees of L.C.I.S. and Golden Oak shall be allowed to purchase shares with the approval of the Board of Directors only as long as they are employed by Golden Oak or L.C.I.S.
6. Failure to maintain any of the above requirements will require immediate sale of L.C.I.S. stock to Golden Oak at the declared value of the shares at the time the shareholder no longer qualifies for stock ownership. Golden Oak will have up to five (5) years to pay off the selling party.
7. Payment for the shares will be made as quickly as possible, but under no circumstances longer than five years. Should the payment for the shares go beyond one year, the selling party will be paid interest at a rate equal to the prime rate plus one percent on the outstanding balance for the period after one year until paid in full.

BEWARE - FINAL PAYMENT IS NOT A PROGRESS PAYMENT



The prompt pay statutes that are found in various sections of our laws, allow for contractors, subcontractors, and subcontractors of subcontractors to seek recovery of a penalty plus attorneys fees under certain situations, when they are not paid.

A recent Court of Appeal's case has determined that the failure of an owner to pay a contractor a final payment is not considered a progress payment and therefore the prompt pay statutes do not apply.

Essentially, the facts of the case were such that the contractor entered into a contract with an owner. The contract called for a 50% deposit and 50% upon satisfactory completion. The deposit was paid, the work was completed, the owner refused to pay the second 50% payment. The contractor recorded a mechanic's lien and thereafter filed a lawsuit. The case was tried before a jury. The jury determined that the owner was wrong in not paying and awarded the contractor the balance of the contract money. The jury also determined that the owner had wrongfully withheld the money and assessed the owner with a two percent penalty pursuant to the prompt pay statutes. The court thereafter awarded the contractor attorneys fees. The contractor would not have been able to recover attorneys fees otherwise in light of the fact that the contract entered into between the contractor and the owner did not have an attorneys fees provision.

The owner appealed claiming that the statute allows for the recovery of a two percent penalty and attorneys fees only upon the failure to pay a progress payment, and that the second payment in this instance was not a progress payment, it was a final payment. Final payment is different than a progress payment. The Court of Appeal agreed essentially saying that a progress payment is work done during the progress of the work and final payment is paid after the work is completed and since the statute used the word progress payment and not final payment, the statute does not apply.

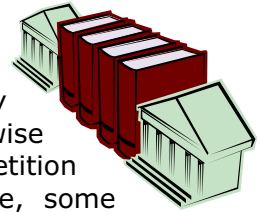
The moral to this story is that you should provide for more payments and have your "final" payment as small as possible.

Reprinted from Abdulaziz, Grossbart & Rudman News, July 2008



PASS THIS ARTICLE ON TO YOUR COMPETITION FROM UNLICENSED CONTRACTORS

You should know that we have been writing articles for contractors and construction trade associations for many years. We thought it might be wise to write an article for your competition – unlicensed contractors. Maybe, some ten percent of your unlicensed contractors will read this document and take heed not to act as unlicensed contractors.



In the last few years, based upon the urging of the legitimate construction industry and the Contractors' State License Board, the Legislature and certain judges have seen fit to punish unlicensed contractors. There is no question that unlicensed activity has been illegal for many years. However, the actual legality, and the penalty has become much more severe.

First, unlicensed contractors basically do nothing for the economy. They typically pay no taxes, they rarely have any financing, nor are they regulated unless they are caught. Any contractor, who does work that requires a license without being able to allege and prove that he was properly licensed, is in fact operating illegally. More and more recently, the Contractors' License Law has been amended more to restrain unlicensed contractors.

Unlicensed contractors are not allowed to recover compensation for work that they did which would require a license. However, more recently, the Legislature, with the aid of the License Board, has now seen fit to allow consumers to sue and recover all compensation paid to the unlicensed contractor for performance of any act or contract. This means that the unlicensed contractor will not be able to sue for money due, but the contractor would also be required to return any money paid. A recent case, *Holland v. Morse Diesel Int'l*, even now requires unlicensed contractors to pay money that was passed on to its subcontractors. Another recent case, called *MW Erectors, Inc. v. Niederhauser Orn. & Met Wks. Co., Inc.* is illustrative of the harshness to unlicensed contractors. In that case, MW Erectors was unlicensed for just 18 days. However, it became licensed and worked for approximately a year while it was licensed. Though it was only unlicensed for 18 days, of more than a year's performance, it was allowed to collect **nothing**. As I said, please pass this article on to your unlicensed contractors.

Reprinted from Abdulaziz, Grossbart & Rudman News, July 2008



SMART WATER POLICY

Reprinted from "Smart Irrigation" July 2008 by Andy Smith

Over the last few years, there has been much debate about how to craft policy that will stimulate the marketplace to take advantage of advanced irrigation technology and practices. The irrigation industry continues to innovate, adapt and improve our capabilities, yet we regularly see examples of inefficient use and water waste. We aren't the only ones who see this waste. Being such a visible industry, everyone gets to see it and that can have an impact.

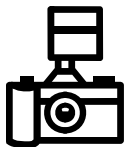
With all the gizmos and gadgets out there, it is easy to get the cart before the horse. Make no mistake, there is no substitute for proper sprinkler or emitter selection and layout, coupled with a piping framework built on sound hydraulic principles. Without covering these basics, any technological enhancement will not provide peak efficiency and, in some cases, may backfire and increase water use.

Equipment Mandates or Outcome Mandates? Without a doubt, our industry has some spectacular equipment. When we look back five, 10 or 20 years, it's striking to see how our ability to irrigate efficiently has improved. It's tempting to promote rules and regulations that would require us to employ all of these advancements. The problem is who knows what the future holds? The irrigation industry will continue to innovate and the last thing any of us wants to do is stifle such innovation. As consumers, industry and policymakers are tempted to create requirements for smart controllers, rain sensors and the like, consider this: we might, and probably will, improve our tools and capabilities over time.

The lesson is, don't paint the industry into a corner. Focus on outcome-based policy. Instead of saying things like "all irrigation systems must have a rain sensor," consider saying, "all irrigation systems must have furnished, installed and functional technology that inhibits, alters or interrupts irrigation cycles in periods of sufficient rainfall or moisture." By taking a little extra time to wordsmith, you can avoid the pitfalls of closing the door to new and/or improved technology.

Leveraging Market Forces. Money is a part of every purchase decision. Economics 101 tells us that. But are we clearly communicating the real cost of an irrigation system if we don't include the ongoing cost of operation, including the water bill? By informing consumers about the true net cost of irrigation, we can have significant influence at the time of purchase. In fact, many areas of the country employ water rate structures that increase water cost per unit as consumptive use increases. This only adds to the case for efficiency. There are many rebate programs offered to improve irrigation efficiency. Most relate to specific component upgrades. Some have been quite successful and yielded wonderful results. I think rebates in general are a great idea and have a great deal of influence in the marketplace. We have to continue to support, adapt and improve rebate programs built around the right principles.

What lies ahead. As has been demonstrated time after time, drought cycles will continue to repeat themselves at very inopportune times and population will continue to grow. The stress this places on water only adds to the necessity for our industry to find creative ways to provide incentives for irrigation efficiency through public



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AVOIDING BACK INJURIES

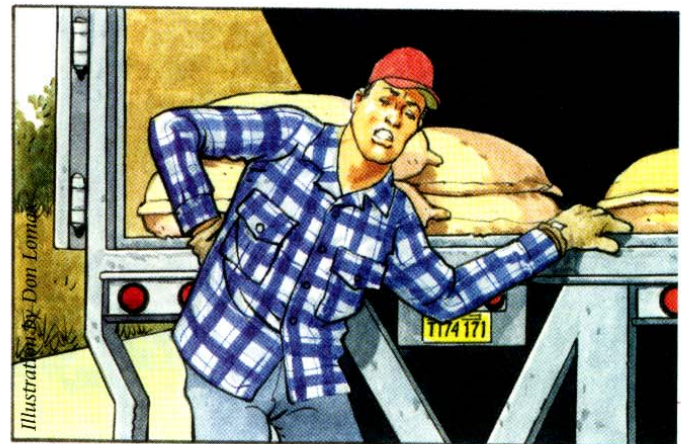
Protect yourself by stretching and using proper lifting techniques.

What the expert says: Improper lifting techniques cause most manual-labor-related back injuries, says Dr. Michael Neely, medical director at New York Sports Medicine and Physical Therapy in New York City. Bending at the waist rather than the knees is a common mistake. Instead, approach the task from a stable position – feet shoulder width apart, back straight, shoulders square – and keep the weight close to your body. Bend your knees in order to reach the object, and use your leg muscles to raise your torso. Don't reach forward, overhead or behind your back. "It's the odd twisting, reaching positions that are likely to cause injury," Neely says.

Doing a few quick stretches before working can prevent back injuries as well. Many muscle groups attach to the pelvis, and when these muscles are tight they cause the pelvis to tilt, putting the back in an unstable position, Neely says. The hip flexors, quadriceps (front of thigh), hamstrings (back of thigh) and several back muscles attach to the pelvis. See the box on right for Neely's suggested stretches.

Back pain associated with landscaping work often results from lumbar strains and sprains, in which muscles are inflamed or slightly injured through overuse or overextension. If you experience low-grade, localized back pain, Neely says you should rest your back to allow the muscles to heal, apply ice to the area (or heat if you don't tolerate cold) and do gentle stretches. See a physician if pain persists longer than two days.

Disc herniations occur when spinal discs – the soft cushions between vertebrae – are pushed outside their



normal position. When this happens, the disc often pinches spinal nerves. Any time back pain extends into your legs or is accompanied by numbness or tingling in your legs or feet, avoid the urge to "grin and bear it," Neely says. Working through the pain puts you at risk of additional injury and further irritates the pinched nerve or nerves, prolonging recovery time. **TLC**

»» Warm-up stretches

- **Quads** – Standing, pull leg back (heel to buttocks), keeping hip neutral.
- **Hamstrings** – Sitting, place one foot on step, wall, etc. (about 18 inches high), keeping knee straight. Bend forward at hip, keeping back straight.
- **Hip flexors** – Place one leg on step or wall and lunge forward slightly while lifting opposite arm.

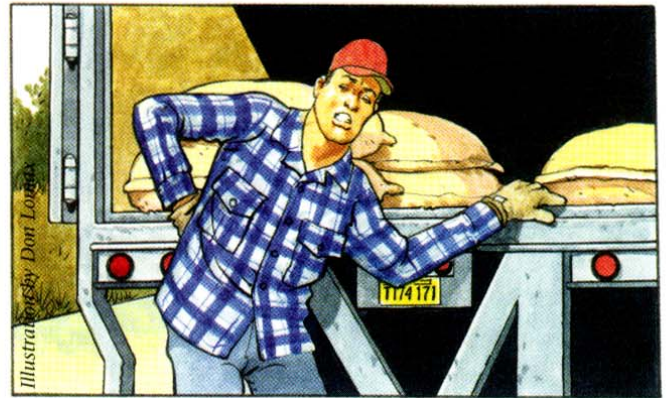
EVITE LAS LESIONES EN LA ESPALDA

Protéjase haciendo ejercicios de elongación y usando las técnicas correctas para levantar objetos.

El experto responde: Las técnicas incorrectas para levantar objetos provocan la mayoría de las lesiones en la espalda relacionadas con el trabajo manual, afirma el Dr. Michael Neely, director médico de New York Sports Medicine and Physical Therapy en la Ciudad de Nueva York. Un error común es flexionar la cintura en lugar de las rodillas. Por el contrario, lo que se debe hacer es encarar la tarea desde una posición estable, con los pies separados al ancho de los hombros, la espalda recta y los hombros erguidos, manteniendo el peso cerca del cuerpo. Debe flexionar las rodillas a fin de alcanzar el objeto y usar los músculos de las piernas para elevar el torso. No debe estirarse hacia adelante, hacia arriba ni hacia atrás. “En general, las lesiones son provocadas por las contorsiones y los estiramientos raros”, afirma Neely.

Hacer algunos ejercicios de elongación antes de trabajar también puede ayudar a evitar las lesiones en la espalda. Muchos grupos de músculos están conectados con la pelvis, y cuando estos músculos se tensionan, hacen que la pelvis se incline y la espalda quede en una posición inestable, comenta Neely. Los músculos flexores de la cadera, los cuádriceps (la parte frontal del muslo), los isquiotibiales (la parte posterior del muslo) y varios músculos de la espalda están conectados con la pelvis. Consulte el cuadro que aparece a continuación para conocer los ejercicios de elongación que sugiere Neely.

El dolor de espalda asociado con el trabajo de jardinería suele ser el resultado de distensiones y esguinces lumbares, en los que los músculos se inflaman o se lesionan levemente debido al uso excesivo o a la hiperextensión. Si tiene dolor de espalda leve y localizado, Neely comenta que debería dejar descansar la espalda para permitir que los músculos se recuperen, colocar hielo en el área afectada (o calor si no tolera el frío) y realizar ejercicios de elongación suaves. Consulte a un médico si

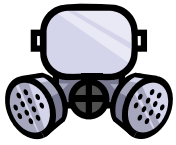


el dolor continúa después de dos días.

Las hernias de disco se producen cuando los discos intervertebrales (los núcleos pulposos ubicados entre las vértebras) se desplazan fuera de su posición normal. Cuando esto sucede, los discos suelen pinzar los nervios raquídeos. Cuando el dolor de espalda se extiende hasta las piernas o está acompañado de entumecimiento u hormigueo en las piernas o los pies, evite la primera reacción de “sonreír y contener el dolor”, dice Neely. Seguir trabajando cuando siente dolor implica un riesgo de lesión adicional e irrita todavía más el o los nervios pinzados. Esto prolonga el tiempo de recuperación. **TLC**

»» Ejercicios de elongación de precalentamiento

- **Cuádriceps** – en posición de pie, estire la pierna hacia atrás (llevando el talón hacia el glúteo) y mantenga la cadera en posición neutra.
- **Isquiotibiales** – en posición de sentado, coloque un pie sobre un escalón, la pared, etc. (aproximadamente a una altura de 18 pulgadas), manteniendo la rodilla estirada. Flexione la cadera hacia adelante, sin doblar la espalda.
- **Músculos flexores de la cadera** – coloque una pierna sobre un escalón o la pared e inclínese levemente hacia adelante mientras eleva el brazo opuesto.



PAYING FOR PPE: OSHA'S 'EMPLOYER-PAID' RULE IS IN EFFECT

Excerpt: By Marvin V. Greene - Safety+Health July 2008



It took nearly a decade to complete, but OSHA's final rule requiring employers to cover the cost of personal protective equipment to safeguard their employees is finally on the books.

OSHA issued the final rule Nov. 15 and gave employers until May 15 to implement the provisions. Under the rule, all required PPE, with some exceptions, must be provided to workers "at no cost."

As final rules are concerned, employer-paid PPE has been through the wringer. OSHA first considered a rule in 1999, and the path to the 2008 implementation date has been fraught with finger-pointing, public hearings, extended comment periods, legislative actions and court challenges. Many observers credit a January 2007 lawsuit filed by labor unions - including the Washington-based United Food and Commercial Workers International Union - with forcing the agency to complete the rule.

While OSHA considers the final rule's provisions straightforward - for instance, the standard spells out specifically that sturdy work shoes are not covered, but metatarsal foot protection is - implementing any new rule can be tricky and often faces differing interpretations.

STATE
COMPENSATION
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STATE FUND FILES A 3.5% PREMIUM DECREASE

Filing marks a 57 percent cumulative rate decrease since 2004

SAN FRANCISCO – State Compensation Insurance Fund today announced it filed a July 1, 2008 revision to its rating plan, which it anticipates will result in a 3.5% reduction in collectible premium. While base rates will remain unchanged, State Fund has expanded its merit rating and claims-free discount plans to lower rates for policies with superior safety records. The new rate filing will affect new and renewal workers' compensation policies with an effective date on or after July 1, 2008.

As State Fund expands its "claims-free" credit, some small employers with superior safety records will see their claims-free discount increase from 10% to 13% or 15%. Additionally, for the first time new business accounts to State Fund may also qualify for a claims-free credit based on experience with their prior carrier. "Promoting safe workplaces is a vital part of State Fund's mission and small business is the backbone of California's economy. We feel it is critical to pass on savings that recognize employers for maintaining safe workplaces," said State Fund President and CEO Janet Frank.

In addition State Fund is enlarging the range of accounts that qualify for its expanded merit rating plan allowing its underwriters greater discretion in pricing accounts generating more than \$100,000 in premium. State Fund's underwriters will be able to base more of the pricing decision on each individual account's experience, providing the opportunity for deeper discounts on accounts with excellent safety records.

"Since 2003 State Fund's rates have fallen steadily and this latest filing brings our cumulative decrease to 57% below pre-2004 reform levels" Frank added. "We have seen significant decreases in cost that are directly attributable to the 2004 passage of SB 899, the Governor's reform legislation, as well as AB 227 and SB 228 in 2003. State Fund has been committed to passing those savings back to employers in the form of lower rates to help California's economy continue to grow," Frank said.



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